

1 NICOLA T. HANNA
United States Attorney
2 BRANDON D. FOX
Assistant United States Attorney
3 Chief, Criminal Division
JULIAN L. ANDRÉ (Cal. Bar No. 251120)
4 Assistant United States Attorney
Major Frauds Section
5 1100 United States Courthouse
312 North Spring Street
6 Los Angeles, California 90012
Telephone: (213) 894-6683
7 Facsimile: (213) 894-6269
Email: Julian.L.Andre@usdoj.gov
8

BRETT A. SAGEL (Cal. Bar. No. 243918)
9 Assistant United States Attorney
Ronald Reagan Federal Building
10 411 West Fourth Street, Suite 8000
Santa Ana, California 92701
11 Telephone: (714) 338-3598
Facsimile: (714) 338-3708
12 Email: Brett.Sagel@usdoj.gov

13 Attorneys for Plaintiff
UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION

17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 MICHAEL JOHN AVENATTI,
21 Defendant.
22
23
24

SA CR No. 19-061-JVS

STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF TRIAL DATE AND
(2) FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
ACT

CURRENT TRIAL DATE:
August 27, 2019

PROPOSED TRIAL DATE:
October 29, 2019

25
26 Plaintiff United States of America, by and through its counsel
27 of record, the United States Attorney for the Central District of
28 California and Assistant United States Attorneys Julian L. André and

1 Brett A. Sagel, and defendant MICHAEL JOHN AVENATTI ("defendant"),
2 both individually and by and through his counsel of record, H. Dean
3 Steward, hereby stipulate as follows:

4 1. The Indictment in this case was filed on April 10, 2019.
5 Defendant first appeared before a judicial officer of the court in
6 which the charges in this case were pending on April 1, 2019. The
7 Speedy Trial Act, 18 U.S.C. § 3161, originally required that the
8 trial commence on or before June 19, 2019.

9 2. On April 29, 2019, the Court set a trial date of June 4,
10 2019, at 8:30 a.m., and a status conference date of May 20, 2019, at
11 9:00 a.m.

12 3. The Court has previously continued the trial date in this
13 case from June 4, 2019, to August 27, 2019, and found the interim
14 period to be excluded in computing the time within which the trial
15 must commence, pursuant to the Speedy Trial Act. (CR 34.)

16 4. Defendant is released on bond pending trial. The
17 government estimates that the government's case-in-chief in this
18 matter will last approximately 15 days. Defendant's counsel
19 estimates that the defense case will last approximately 10 days.

20 5. By this stipulation, defendant moves to continue the trial
21 date from August 27, 2019, to October 29, 2019, and the pretrial
22 status conference from August 12, 2019, to October 14, 2019, at 9:00
23 a.m. This is defendant's second request for a continuance.

24 6. Defendant requests the continuance based upon the following
25 facts, which the parties believe demonstrate good cause to support
26 the appropriate findings under the Speedy Trial Act:

27 a. Defendant is charged in a 36-count indictment with:
28 ten counts of wire fraud, in violation of 18 U.S.C. § 1343; eight

1 counts of willful failure to collect and pay over withheld taxes, in
2 violation of 26 U.S.C. § 7202; one count of endeavoring to obstruct
3 the administration of the Internal Revenue Code, in violation of 26
4 U.S.C. § 7212(a); ten counts of willful failure to file tax returns,
5 in violation of 26 U.S.C. § 7203; two counts of bank fraud, in
6 violation of 18 U.S.C. § 1344(1); one count of aggravated identity
7 theft, in violation of 18 U.S.C. § 1028A(a)(1); three counts of false
8 declaration in a bankruptcy, in violation of 18 U.S.C. § 152(3); and
9 one count of false oath in a bankruptcy proceeding, in violation of
10 18 U.S.C. § 152(2). To date, the government has produced
11 approximately 138,903 Bates-labeled pages of discovery materials, as
12 well as forensic copies of certain digital devices obtained during
13 the government's investigation. (See CR 44.) The government
14 anticipates producing additional discovery to the defense on a
15 rolling basis going forward, including additional documents and
16 records obtained from search warrants executed during the course of
17 the government's investigation. (See CR 44; CR 49.)

18 b. On July 8, 2019, the parties appeared before the Court
19 for a status conference to address, among other issues, a potential
20 trial date in this matter. (CR 45; CR 46.) During the status
21 conference, the Court indicated that it was not prepared to set a
22 firm trial date in this matter until certain discovery issues are
23 resolved. (CR 45; CR 46.) The Court set a further status conference
24 for September 18, 2019, at 8:30 a.m. (CR 45; CR 46.) The Court also
25 instructed the parties to select a nominal trial date in October 2019
26 and submit a stipulation to continue the trial to that interim date.
27 (CR 45; CR 46.)

1 c. On July 28, 2019, defendant filed a motion to compel
2 the government to produce to defendant forensic copies of certain
3 digital devices belonging to defendant's former law firm, Egan
4 Avenatti LLP. (CR 50.) The hearing on defendant's motion is
5 scheduled for August 26, 2019, at 8:30 a.m. (CR 45.).

6 d. Defendant is separately charged in a four-count
7 indictment in the Southern District of New York with offenses
8 relating to an alleged scheme to extort Nike Inc. United States v.
9 Avenatti, No. 1:19-CR-373 (the "SDNY Extortion Case"). The SDNY
10 extortion case is set for trial on November 12, 2019.

11 e. Defendant's counsel represents that he has the
12 following trial conflicts: (1) United States v. Noori, SA CR No. 17-
13 112-DMG, a two-week bank fraud trial scheduled to begin on September
14 17, 2019; (2) United States v. Michaels, SA CR No. 16-76-JVS, a
15 three-week, multi-defendant fraud trial scheduled to begin on October
16 22, 2019; (3) United States v. Le, SA CR No. 18-119-AG, a three-week
17 multi-defendant health care fraud trial scheduled to begin on
18 November 26, 2019; and (4) United States v. Garcia, a two-week multi-
19 defendant fraud trial scheduled to begin on December 3, 2019, in the
20 District of Nevada.

21 f. In light of the foregoing, counsel for defendant
22 represents that additional time is necessary to confer with
23 defendant, conduct and complete an independent investigation of the
24 case, conduct and complete additional legal research including for
25 potential pre-trial motions, review the discovery and potential
26 evidence in the case, and prepare for trial in the event that a
27 pretrial resolution does not occur. Defense counsel represents that
28 failure to grant the continuance would deny him reasonable time

1 necessary for effective preparation, taking into account the exercise
2 of due diligence.

3 g. Defendant believes that failure to grant the
4 continuance will deny him continuity of counsel and adequate
5 representation.

6 h. The government does not object to the continuance.

7 i. The requested continuance is not based on congestion
8 of the Court's calendar, lack of diligent preparation on the part of
9 the attorney for the government or the defense, or failure on the
10 part of the attorney for the government to obtain available
11 witnesses.

12 7. For purposes of computing the date under the Speedy Trial
13 Act by which defendant's trial must commence, the parties agree that
14 the time period of August 27, 2019, to October 29, 2019, inclusive,
15 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A),
16 (h)(7)(B)(i), and (h)(7)(B)(iv) because the delay results from a
17 continuance granted by the Court at defendant's request, without
18 government objection, on the basis of the Court's finding that:
19 (i) the ends of justice served by the continuance outweigh the best
20 interest of the public and defendant in a speedy trial; (ii) failure
21 to grant the continuance would be likely to make a continuation of
22 the proceeding impossible, or result in a miscarriage of justice; and
23 (iii) failure to grant the continuance would unreasonably deny
24 defendant continuity of counsel and would deny defense counsel the
25 reasonable time necessary for effective preparation, taking into
26 account the exercise of due diligence.

27 8. Nothing in this stipulation shall preclude a finding that
28 other provisions of the Speedy Trial Act dictate that additional time

1 periods be excluded from the period within which trial must commence.
2 Moreover, the same provisions and/or other provisions of the Speedy
3 Trial Act may in the future authorize the exclusion of additional
4 time periods from the period within which trial must commence.

5 IT IS SO STIPULATED.

6 Dated: August 2, 2019

Respectfully submitted,

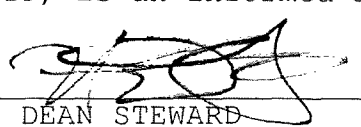
7 NICOLA T. HANNA
8 United States Attorney

9 BRANDON D. FOX
10 Assistant United States Attorney
Chief, Criminal Division

11 /s/ Julian L. André
12 JULIAN L. ANDRÉ
13 BRETT A. SAGEL
Assistant United States Attorneys

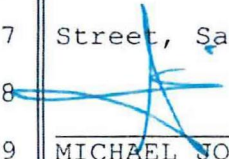
14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA

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17 I am MICHAEL JOHN AVENATTI's attorney. I have carefully
18 discussed every part of this stipulation and the continuance of the
19 trial date with my client. I have fully informed my client of his
20 Speedy Trial rights. To my knowledge, my client understands those
21 rights and agrees to waive them. I believe that my client's decision
22 to give up the right to be brought to trial earlier than October 29,
23 2019, is an informed and voluntary one.

24 
25 H. DEAN STEWARD
26 Attorney for Defendant
MICHAEL JOHN AVENATTI

27 8-6-19
28 Date

1 I have read this stipulation and have carefully discussed it
2 with my attorney. I understand my Speedy Trial rights. I
3 voluntarily agree to the continuance of the trial date, and give up
4 my right to be brought to trial earlier than October 29, 2019. I
5 understand that I will be ordered to appear in Courtroom 10C of the
6 Ronald Reagan Federal Building and U.S. Courthouse, 411 West Fourth
7 Street, Santa Ana, California on October 29, 2019, at 8:30 a.m.

8 
9 MICHAEL JOHN AVENATTI
Defendant

Aug. 6, 2019
Date